

Department of Behavioral Health
TRANSMITTAL LETTER

SUBJECT Mandatory Testing for DBH Drivers of Commercial Motor Vehicles for the Presence of Controlled Substances and Alcohol		
POLICY NUMBER DBH Policy 716.2A	DATE MAR 13 2014	TL# 240

Purpose. This policy establishes the procedures for the Department of Behavioral Health (DBH) to implement the requirements of D.C. Official Code 1-620.11 and DCMR 6-3900 for mandatory drug and alcohol testing of DBH drivers of commercial motor vehicles (also referred to as Commercial Drivers License [CDL] drivers in this policy).

This re-issued policy updates the exhibits to reflect the DBH instead of DMH. There are no changes to the policy itself.

Applicability. This policy applies to individuals tentatively selected for and employees who are currently employed as DBH CDL drivers of commercial motor vehicles.

Policy Clearance. Reviewed by affected responsible staff and cleared through appropriate Behavioral Health Authority offices.

Implementation Plans. Specific staff whose roles are relevant to the implementation of this policy should be trained, as needed. Program managers are responsible for following through to ensure compliance.

Policy Dissemination and Filing Instructions. Managers/supervisors of DBH must ensure that staff are informed of this policy. Each staff person who maintains policy manuals must promptly file this policy in the DBH Policy and Procedures Manual.


ACTION

REMOVE AND DESTROY


DBH Policy 716. 2
issued December 17, 2013

INSERT

DBH Policy 716.2A



Stephen T. Baron 3/13/14 Date
Director, DBH

<p align="center">GOVERNMENT OF THE DISTRICT OF COLUMBIA</p>  <p align="center">DEPARTMENT OF BEHAVIORAL HEALTH</p>	<p>Policy No. 716.2A</p>	<p>Date MAR 13 2014</p>	<p>Page 1</p>
	<p>Supersedes DBH 716.2, same subject, dated Dec. 17, 2013</p>		

Subject: Mandatory Testing for DBH Drivers of Commercial Motor Vehicles for the Presence of Controlled Substances and Alcohol

1. **Purpose.** This policy establishes the procedures for the Department of Behavioral Health (DBH) to implement the requirements of D.C. Official Code 1-620.11 and DCMR 6-3900 for mandatory drug and alcohol testing of DBH drivers of commercial motor vehicles (also referred to as Commercial Drivers License [CDL] drivers in this policy).

2. **Applicability.** This policy applies to individuals tentatively selected for and employees who are currently employed as DBH CDL drivers of commercial motor vehicles.

3. **Authority.** Testing of Drivers of Commercial Motor Vehicles for the Presence of Alcohol and Controlled Substances, D.C. Official Code §1-620.11; Mandatory Drug and Alcohol Testing of Certain Employees of the Department of Human Services and the Commission on Mental Health Services, D.C. Official Code §1-620.21 *et seq.*; 6 DCMR §3900 *et seq.*; Mandatory Drug and Alcohol Testing for Certain Employees Who Serve Children, Motor Vehicle Operators, D.C. Official Code §1-620.33; 49 U.S.C. §31306 and regulations 49 CFR Parts 382-385.

4. **Policy.** *As a condition of employment, applicants tentatively selected for and employees who are currently employed as DBH CDL drivers of commercial motor vehicles shall refrain from operating commercial motor vehicles while under the influence of alcohol or other drugs and shall comply with the DBH drug and alcohol testing procedures in this policy.*

5. **DBH Notice.** At least thirty (30) calendar days in advance of implementing the mandatory drug and alcohol testing for DBH CDL drivers, DBH will notify CDL employees in writing that such a program will be implemented. Upon receipt of the DBH written notice, each CDL driver shall be given an opportunity to seek treatment, if he or she has a drug or alcohol problem. No employee may be tested for drug or alcohol use prior to the notice being issued. CDL Drivers must sign an acknowledgment of receipt of this policy and notice (Exhibit 1). Also see Section 18c (3) below.

6. **Required Testing of CDL Drivers.** CDL drivers and applicants for CDL positions are subject to the following tests:

TYPE OF TEST	ALCOHOL (Breath)	DRUG (Urine)
Pre-Employment/Applicant	No	Yes
Random	Yes	Yes
Reasonable Suspicion	Yes	Yes
Post-Accident	Yes	Yes
Return-to-Duty	Yes	Yes
Follow-up	Yes	Yes

- DBH shall obtain the services of an outside contractor who is certified by the United States Department of Health and Human Services (HHS) to perform job-related drug and alcohol forensic testing to include a certified laboratory and the services of a Medical Review Officer (licensed physician) to verify the test results, in accordance with the requirements specified in the law and regulations.

7. Applicant Testing.

7a. Coverage. Drug testing shall be required of all applicants who are tentatively selected to work as CDL driver employees. This requirement also applies to current DBH employees (or other DC government employees) who do not occupy a CDL driver position but are selected, reassigned, or transferred into a CDL driver position.

7b. Vacancy Announcements. Each vacancy announcement for a CDL driver position will contain the information that is provided in the statements below:

- (1) Position has been designated as a safety-sensitive position subject to mandatory drug and alcohol testing;
- (2) Applicants must submit to mandatory testing for illegal drug use prior to a final job offer and appointment;
- (3) DBH employees and other DC government employees tentatively selected for this position will be required to undergo drug testing if they are not currently occupying a CDL driver position; and
- (4) Once hired, CDL driver employees shall be subject to mandatory random drug and/or alcohol testing as outlined in this policy.

7c. Failure to include the above information on a vacancy announcement will not preclude drug/alcohol testing. Offer letters will reiterate that the employment offer is contingent upon a negative drug test result.

7d. In the case of non-competitive recruitment for a CDL driver position, DBH Human Resources shall inform the person being considered for employment of the mandatory testing requirements.

7e. DBH Human Resources will decline to extend a final offer of employment to any applicant who is tentatively selected for employment as a driver of commercial motor vehicles (CDL driver) that has a verified positive test result or refuses to submit to testing.

7f. The Drug Testing Liaison (DTL) will arrange for the drug testing in conjunction with the appropriate DHR Specialist. The drug test must be conducted as soon as possible after notice of tentative selection, and a negative result must be received by DBH prior to DBH making a final offer of employment.

8. Random Drug and Alcohol Testing.

8a. Coverage. CDL Drivers will be subject to random drug and/or alcohol testing.

8b. Procedures.

(1) The DTL will notify employees who are selected randomly for drug/alcohol testing through their first-line supervisor on the same day on which the test is scheduled, preferably within two (2) hours of the scheduled testing.

(2) A supervisor is responsible for ensuring the employee is promptly notified to report to the testing site.

(3) CDL drivers shall report to the testing site within one (1) hour of notification of being selected for testing.

(4) The results of any random test may not be turned over to any law enforcement agency without the employee's written consent.

8c. Deferral. An employee who is selected randomly for drug/alcohol testing may obtain a deferral of testing under limited conditions: (1) employee is in a leave status, or (2) employee is in official travel status away from the test site or will embark on previously scheduled official travel within two (2) hours of testing notification.

- The employee's immediate or second-level supervisor and the DTL must approve such a deferral. An employee whose test is deferred will be given an unannounced test within the following sixty (60) days. Employees refusing to be tested, after being so ordered, may be subject to termination of employment.

8d. Positive Test Results. Random drug/alcohol testing results that are positive will be handled as described in Section 14, Disciplinary Actions for CDL Policy Violations.

9. Reasonable Suspicion Testing.

9a. Grounds for Reasonable Suspicion Referral. DBH may test an employee for drug/alcohol use based on "probable cause" or "reasonable suspicion", which means that a DBH supervisor believes that an employee is under the influence of an illegal drug or alcohol to the extent that the employee's ability to perform his or her job is impaired. Conditions giving rise to "probable cause" or "reasonable suspicion" must be observed and documented.¹

9b. Procedures. The following steps must be followed when a supervisor initiates a reasonable suspicion referral for testing:

(1) The supervisor must document his/her observations of the conditions or circumstances leading to and supporting the suspicion on the DBH Drug and Alcohol Testing Reasonable Suspicion Form, (Exhibit 2) and obtain a written second observation from another supervisor, and immediately provide to the DTL/designee in the DBH Human Resources.

(2) The DTL/designee must review the documentation to ensure that the information is appropriate and that requirements have been met.

(3) If grounds for referral exist, the DTL will schedule the drug/alcohol test with the contractor and provide the employee and supervisor with a written referral.

(4) Positive test results will be handled as described in Section 14, Disciplinary

¹ Supervisors must be trained on reasonable suspicion referrals. See Section 18c (8) and 18d of policy.

Actions for CDL Policy Violations.

9c. Implied Consent of Employees Who Operate Motor Vehicles. Any employee who operates a motor vehicle in the performance of his/her employment within District of Columbia shall be deemed to have given his or her consent, subject to the conditions of the law, to the testing of the employee's urine or breath, for the purpose of determining drug or alcohol content, whenever a supervisor has probable cause or a police officer arrests such person for a violation of the law and has reasonable grounds to believe such person to have been operating or in physical control of a motor vehicle within the District while that employee's breath contains .08 percent or more, by weight, of alcohol, or while under the influence of an intoxicating liquor or any drug or combination thereof, or while that person's ability to operate a motor vehicle is impaired by the consumption of intoxicating liquor.

10. Post-Accident Testing.

10a. As soon as possible following an accident involving a commercial motor vehicle, each surviving CDL driver involved in the accident shall be tested for alcohol and controlled substances when either:

- (1) The accident involves a loss of human life;
- (2) One (1) or more motor vehicles (either government or private) incurs disabling damage, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle;
- (3) Anyone receives bodily injury which requires immediate medical attention away from the scene;
- (4) The CDL driver received a citation under District or another law for a moving traffic violation arising from the incident; or
- (5) The CDL driver's performance cannot be completely discounted a contributing factor, using the best information available at the time of the decision.

10b. When a required post-accident test has not been administered within a reasonable time frame following the accident, the following actions shall be taken:

TIME ELAPSED	ACTION REQUIRED
2 Hours [Alcohol]	If the CDL driver has not submitted to an alcohol test at the time, DBH shall prepare and maintain on file a record stating the reason a test was not promptly administered.
8 Hours [Alcohol]	Cease attempts to administer alcohol test and prepare and maintain record described above.
32 Hours [Control Substances]	If the CDL driver has not submitted to a controlled substance test by this time, DBH shall cease attempts to administer the test, and prepare and maintain the record described above.

10c. CDL Driver Responsibility – CDL drivers shall:

- (1) Remain available or they may be considered to have refused to submit to testing; and
- (2) Refrain from consuming alcohol for eight (8) hours following the accident, or until they submit to an alcohol test, whichever comes first.

NOTE: Nothing in this policy should be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a CDL driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

10d. Positive test results will be handled as described in Section 14, Disciplinary Actions for CDL Policy Violations.

11. **Return-to-Duty Testing**. A CDL driver who tests positive shall undergo an alcohol or controlled substance test before he or she returns to duty. The results must be negative or the CDL driver shall not be permitted to perform a safety-sensitive function.

12. **Follow-up Testing**.

12a. Following a determination relating to a referral, evaluation, or rehabilitation that a CDL driver needs assistance in resolving problems associated with the misuse of alcohol and/or controlled substances, DBH shall ensure that the driver is subject to unannounced follow-up testing as directed by the Substance Abuse Professional (SAP);

12b. CDL drivers shall be subject to a minimum of six (6) follow-up tests in the first twelve (12) months. Follow-up testing can be required for up to sixty (60) months;

12c. Alcohol follow-up testing shall be conducted only when the CDL driver is performing safety sensitive functions, just before the CDL driver is to perform safety sensitive functions, or just after the CDL driver has ceased performing safety sensitive functions; and

12d. Controlled substance follow-up testing can take place anytime the CDL driver is at work according to the direction of the SAP.

13. **Refusal to Submit to a Test**.

13a. An Applicant. DBH will decline to extend a final offer of employment to any applicant who is tentatively selected for employment as a driver of commercial motor vehicles (CDL driver) that refuses to submit to testing. The Human Resources (HR) Specialist responsible for the vacancy shall prepare an appropriate note for the merit staffing file and inform the applicant.

13b. A CDL driver who refuses to submit to a post-accident, reasonable suspicion, random, follow-up or return to duty alcohol or controlled substance test shall be subject to disciplinary action, up to and including removal from employment.

13c. A CDL driver who refuses to submit to a required test shall not perform or continue to perform CDL driver safety sensitive functions. See "Definitions" at the end of this policy for a detailed explanation of what constitutes "Refusal to Submit" under this policy.

13d. Refusal to provide a urine specimen, willful tampering with test specimens, or any attempt to circumvent the testing process shall be deemed a refusal to take the drug/alcohol test and shall be grounds for termination of employment/non-selection.

14. Disciplinary Actions for CDL Policy Violations.

14a. DBH is committed to maintaining a drug and alcohol free workplace. Failure to comply with this policy shall subject a CDL driver to disciplinary action up to and including removal from employment and shall require mandatory referral to the Employee Assistance Program (EAP) where appropriate. In certain circumstances, DBH may initiate disciplinary action, up to and including removal from employment without referring a CDL driver to EAP. Also see Section 17 below regarding referrals for treatment.

14b. Mandatory participation in such a program does not limit enforcement of, or a CDL driver's obligation to comply with DBH Policy 716.2, and will not restrict DBH's authority to discipline a CDL driver who has violated the policy.

14c. The following instances of prohibited controlled substance and/or alcohol misconduct shall be grounds for disciplinary action up to, and including removal:

- (1) On-duty use or possession of controlled substance.
- (2) Drug trafficking - Includes sale, distribution, or transportation.
- (3) On-duty use of alcohol.
- (4) Off-duty use of controlled substances - On the first determination of this violation, the removal action or other discipline shall be held in abeyance while the employee is offered a conditional opportunity for rehabilitation.
- (5) Off-duty alcohol misuse concentration - Includes off-duty misuse of alcohol as verified by an alcohol concentration of 0.040 or greater on a confirmation test under DBH's program. On the first determination of this violation, the removal action or other discipline shall be held in abeyance while the employee is offered a conditional opportunity for rehabilitation.
- (6) Abstinence period failure – includes either the pre-duty or post accident period of restriction for alcohol use. On the first determination of this violation, the removal action shall be held in abeyance while the CDL driver is offered a conditional opportunity for rehabilitation.

(7) Repeated misconduct - DBH shall initiate disciplinary action to remove a CDL driver who has a second violation under this policy. Violations committed after a first determination of a verified positive controlled substance test result or confirmed alcohol concentration of 0.040 or greater shall qualify as repeated misconduct.

(8) Refusal to comply with procedures during collection or testing/refusal to submit - Includes failure to report to the designated testing site within one (1) hour of notification, refusal to provide a urine specimen or an adequate amount of breath for testing, attempts to alter, adulterate, or substitute the specimen provided, or engagement in conduct that clearly obstructs the collection or testing process. DBH will not offer employment to any applicant who refuses to submit to testing.

(9) Refusal to enter or successfully complete a substance abuse rehabilitation program - Includes refusal to enter or failure to successfully complete counseling or a rehabilitation program under the EAP. A determination that the CDL driver has failed rehabilitation may be made on the basis of off-duty or alcohol related misconduct or the CDL driver not adhering to the terms of the rehabilitation program.

15. **Other Alcohol-Related Conduct.** DBH must depend on all employees to be able to perform their duties and to be available when scheduled for duty. Testing "not-ready-for-duty" is inconsistent with this requirement. Disciplinary action for other alcohol-related misconduct (i.e., testing not-ready-for-duty) is set forth below and shall be taken under the described circumstances:

Not ready for duty - A CDL driver subject to alcohol testing must be removed from safety sensitive functions if the result of an alcohol test produces an alcohol concentration equal to or greater than 0.020 but less than 0.040 on a confirmation test. Any CDL driver in a not-ready-for-duty status shall not perform any safety sensitive functions for the remainder of the shift. The CDL driver shall not return to his or her safety sensitive functions until the start of his or her next regularly scheduled shift, provided that shift occurs no sooner than eight (8) hours after the alcohol test was conducted.

- First occurrence - A CDL driver who engages in this misconduct shall not be allowed to perform safety sensitive functions for the remainder of the shift. In addition, the CDL driver shall be issued a letter of warning which includes an explanation of the consequences of any subsequent determination of a not-ready-for-duty status.
- Subsequent occurrence - A CDL driver who engages in this misconduct (i.e., repeated occurrence of not-ready-for-duty status) shall be dismissed from the worksite and shall be charged with Absence Without Official Leave (AWOL) for the remainder of the shift, since the CDL driver, although physically present at the worksite, is not able and available for his or her assigned duties. Appropriate disciplinary action shall be initiated as necessary.

16. **Disciplinary Procedures.** Any and all disciplinary actions recommended and imposed due to a violation of this policy whether in the form of a suspension or removal from employment shall conform where applicable to the District Personnel Regulations, relevant collective bargaining agreement procedures, and any other established procedures pertaining to discipline.

17. **Referral for Treatment.** The District has an interest in encouraging employees to cope with controlled substance and alcohol related problems. CDL drivers who are tested under this policy and whose controlled substance and/or alcohol test is confirmed positive shall generally be referred to the Employee Assistance Program (EAP) for evaluation and possible referral and/or treatment. In some instances, suspension or removal of a CDL driver rather than referral and treatment may be appropriate as determined on a case-by-case basis.

17a. **Employee Assistance Program (EAP).** The EAP is a counseling and referral service available to assist employees in handling personal and workplace problems; including drug use and alcohol abuse. The District of Columbia Department of Human Resources (DCHR) is the administrator of the EAP for District government employees.

17b. **As an alternative to the EAP,** employees may seek counseling, treatment, or rehabilitation from a source of their own choosing. The employee is responsible for the full cost of these services. The employee must notify the DTL immediately, in writing, to provide the name of their source for treatment and to find out what additional information he or she must provide.

17c. **Regardless of the treatment program chosen,** employees remain responsible for successful completion of the program or rehabilitation. An assertion with respect to a referral or treatment program will not constitute an excuse for continuing to use illegal drugs or abuse alcohol, or a defense to disciplinary action if the employee does not complete treatment. Failure to complete the counseling and rehabilitation program, or a confirmed positive drug test result for the test conducted upon completion of the counseling and rehabilitation program shall be grounds for termination of employment.

17d. **Mandatory-Referrals.** CDL drivers are to be referred on a mandatory basis to the EAP for a diagnosis and treatment of controlled substance and/or alcohol problems on the first incident of a positive controlled substance or alcohol screening. Also see Section 17 above for exceptions.

17e. **Self-Referral.** A CDL driver may voluntarily enroll in a treatment program for alcohol or controlled substance abuse at any time after acknowledging receipt of the DBH written notice. Each employee occupying a CDL driver position shall be given an opportunity to seek treatment if he or she acknowledges a drug or alcohol problem. The employee shall undergo and complete a counseling and rehabilitation program, and in this instance shall not be subject to administrative action while completing the counseling and rehabilitation program; however, the employee must be detailed to non-safety sensitive functions while he or she undergoes and completes the counseling and rehabilitation program. Notwithstanding a self-referral, a CDL driver who has a first violation under this policy shall continue to be subject to follow-up testing.

17f. **Self-Identification** of illegal use of controlled substances or alcohol abuse.

(1) A CDL driver who self-identifies to a supervisor illegal use of controlled substances or alcohol abuse shall be subject to the following procedures:

- (a) CDL driver shall complete the "Confidential CDL Driver Self Identification/ Referral Form (Exhibit 3), and submit the form to his/her supervisor.
- (b) CDL driver shall self-refer to EAP within twenty (24) hours of self-identification.
- (c) Supervisor shall remove the CDL driver from safety sensitive functions and may refer to the EAP for assessment and/or must verify the CDL driver's referral, and notify the DBH Drug Testing Liaison (DTL).

(2) The CDL driver shall not be subject to random testing until return to a safety sensitive function.

(3) Supervisors are required to demand a controlled substance or alcohol test for CDL drivers who fail to self-refer to EAP within twenty-four (24) hours. The test shall not be treated as a return-to-duty test under Federal Highway Administration (FHWA) Regulations.

- o If the test is negative, the CDL driver shall be subject to random controlled substance testing.
- o If the test is positive, the supervisor will give the employee a written mandatory referral to EAP.

(4) Self-identification cannot be done once a CDL driver has been notified of selection for controlled substance and alcohol testing.

(5) A CDL driver may return to his or her safety sensitive functions when:

- (a) The EAP clinician or Substance Abuse Professional (SAP) has completed a readiness for work letter upon the successful completion of a substance abuse education and treatment program;
- (b) He or she has a negative controlled substance test before returning to duty; and
- (c) He or she is returned to the random CDL controlled substance testing pool.

17g. A CDL driver who does not comply with EAP recommendations shall be subject to disciplinary action up to and including removal. A CDL driver's refusal to comply with EAP recommendations shall be treated as a refusal to submit to a test. In all situations, the DBH DTL must be notified within twenty-four (24) hours of CDL drivers who are not following treatment program.

18. Responsibilities.

18a. Medical Review Officer (MRO). An outside licensed physician who serves as the common point of contact between the testing contractor and DBH. Also see definition for MRO at the end of this policy.

(1) Employer Notification. The MRO shall report controlled substance test results to the DTL by any means of communications; however, a signed, written notification shall be forwarded within three (3) business days of the completion of the MRO's decision.

(2) Employee Notification.

(a) Prior to verifying a positive result, the MRO shall make every effort to contact the CDL driver confidentially to give him/her the opportunity to discuss the test result;

(b) If, after making all reasonable efforts and documenting them, the MRO is unable to reach the CDL driver directly, the MRO shall contact the DTL, who shall direct the CDL driver to contact the MRO as soon as possible (within twenty-four [24] hours); and

(c) The CDL driver has seventy-two (72) hours following notification of a positive result to request that the secondary split sample be analyzed.

18b. Director, DBH Human Resources shall be responsible for the general administration of the DBH mandatory drug and alcohol testing for CDL drivers, and shall:

(1) Select and assign the Drug Testing Liaison (DTL);

(2) Provide advice and guidance on related drug and alcohol testing issues (e.g., disciplinary and adverse actions);

(3) Ensure that supervisors and managers of CDL drivers are provided guidance and assistance in appropriately detailing an employee to non safety sensitive functions while the employee undergoes and completes a counseling and rehabilitation program; and

(4) Maintain a current listing of CDL driver positions/incumbents.

18c. Drug Testing Liaison (DTL). A DBH employee who is responsible for planning, directing, implementing, evaluating and coordinating activities pertaining to the CDL controlled substance and alcohol testing. The DTL shall:

(1) Serve as the principal contact with the drug and alcohol testing contractor and the MRO to ensure effective operation of drug/alcohol testing and monitor the Department's drug and alcohol testing contract;

(2) Ensure that a written DBH Notice to announce the implementation of the DBH mandatory drug and alcohol testing program for CDL Drivers is issued to all affected employees at least thirty (30) calendar days in advance of the testing as noted in Section 5 above.

(3) Ensure that each employee occupying a CDL driver position signs an acknowledgment that he or she received a copy of the drug and alcohol testing policy and notice, and has been informed of the requirements. The original acknowledgment form shall be filed in a place designated for that purpose;

(4) Notify the supervisor of a randomly selected employee for testing and ensure that any deferral meets the criteria for such determination (see

Section 8c above);

(5) Notify employees and their supervisors (or HR Specialist for applicants) of verified test results received from the MRO consistent with confidentiality requirements (see Section 19a below);

(6) Maintain required confidential records and reports concerning drug and alcohol testing;

(7) Publicize and disseminate drug and alcohol testing educational materials;

(8) Ensure that DBH supervisors of CDL drivers are provided training on substance abuse recognition, reasonable suspicion referrals, and this policy; and

(9) Periodically evaluate the program including the number of employees tested, the frequency of the testing, and make recommendations to the Director, DHR for adjustment as deemed appropriate.

18d. Managers and Supervisors of CDL Drivers shall:

(1) Be trained on substance abuse recognition, reasonable suspicion referrals, and this policy.

(2) Direct employees who work in CDL driver positions to submit to testing under the requirements of this policy;

(3) Initiate reasonable suspicion referral on DBH Drug and Alcohol Testing Reasonable Suspicion Form (Exhibit 2), when appropriate, documenting conditions and obtain a written second observation from another supervisor;

(4) Consult with the DBH Drug Testing Liaison (DTL) and other DHR staff on drug testing and related issues respectively, including the requirement to immediately detail the employee to non safety sensitive functions while he or she undergoes and completes a counseling and rehabilitation program; and

(5) Initiate appropriate action in accordance with this policy, relevant rules and regulations when an employee has a confirmed positive drug or alcohol test or refuses to submit to testing. Also see Section 16 above.

19. Drug and Alcohol Testing Records and Reports.

19a. Maintenance and Confidentiality of Records. The DTL shall establish a record keeping system to maintain the records of the DBH mandatory drug and alcohol testing consistent with all applicable rules and regulations regarding confidentiality of records. The DTL will retain drug and alcohol information and records in a secure manner, and only authorized individuals who have a need to know shall have access. Drug testing information relating to specific individuals is confidential and must be treated as such by anyone authorized to review or compile records.

19b. Access to Records. Any individual who is the subject of a drug/alcohol test shall, upon written request, have access to their drug/alcohol testing records that are maintained by the DTL.

19c. Statistical Information. Statistical data and other pertinent information shall be compiled and provided to the DBH Director, when requested, to assist in overall program evaluation and budget considerations. The DTL shall collect and compile anonymous statistical data for reporting the following numbers:

- (1) Random tests, reasonable suspicion tests, post-accident tests, follow-up tests, and tests of applicants selected for CDL driver positions;
- (2) Verified positive test results;
- (3) Terminations of employment and employment offer withdrawals resulting from refusal to submit to testing, "unjustified" positive test results, and adulteration of specimens;
- (4) Terminations of employment resulting from failure to complete a drug/alcohol rehabilitation program; and
- (5) Employees who successfully complete a drug/alcohol treatment program.

20. Definitions. For the purpose of this policy, the following terms apply:

Accident – Any incident involving a CDL driver operating a commercial motor vehicle.

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols in methyl and isopropyl alcohol, no matter how it is packaged or in what form the alcohol is stored, utilized or found.

Alcohol Concentration (or content) – The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

Alcohol Use - The consumption of any beverage, mixture, or preparation (including any medication) containing alcohol.

Applicant - A person who has filed a written employment application form or resume and has been tentatively selected for employment by DBH.

Commercial Driver's License (CDL) Driver - Any person who holds a commercial driver's license and operates a commercial motor vehicle.

Controlled Substances – Drugs whose general availability is restricted or outlawed because of their potential for abuse or addiction in accordance with the Controlled Substances Act (D.C. Official Code § 48-901 et seq.). Controlled substances include any prescription drugs that are governed by the Controlled Substance Act.

Controlled Substance/Alcohol Test – A procedure to determine if a blood, breath, or urine specimen contains drugs, alcohol, or the metabolites of drugs or alcohol.

Contractor Drug Testing Liaison – A person who serves as a “Communicator” between DBH, the Substance Abuse Professional (SAP), Employee Assistance Program (EAP), and the controlled substance and alcohol testing services contractor. This person is employed with the testing contractor and is responsible for planning, directing, implementing, evaluating, and coordinating activities pertaining to the CDL controlled substance and alcohol testing for the contractor.

DBH Drug Testing Liaison (DTL) – This person is employed with the DBH and is responsible for planning, directing, implementing, evaluating, and coordinating activities pertaining to the CDL controlled substance and alcohol testing for DBH.

Drug Trafficking – the intent to distribute controlled substances.

Employee - Any person employed in a position as a CDL driver for which he or she is paid for services on any basis.

Medical Review Officer (MRO) - A licensed physician who serves as the common point of contact between all parties involved in a drug test. The MRO receives test results from the drug testing contractor, and reviews, verifies and reports test results to the DTL. The MRO may not have any financial interest in the laboratory for which the MRO is reviewing drug testing results, and must not derive any financial benefit by having any agreement with the laboratory that may be construed as a potential conflict of interest.

Post-accident employee - An employee who, while on duty, was involved in a vehicular or other type of accident resulting in personal injury or property damage, or both.

Probable cause or reasonable suspicion - A reasonable belief by a supervisor that an employee is under the influence of an illegal drug or alcohol to the extent that the employee's ability to perform his or her job is impaired.

Random Testing - Drug or alcohol testing conducted on an employee at an unspecified time for purposes of determining whether the employee has used drugs or alcohol and, as a result, is unable to satisfactorily perform his or her employment duties.

Supervisor - An employee who possesses the authority to recommend the hiring, promotion, transfer, discipline, or discharge of a subordinate employee; who has the authority to direct as well as assign work to the employee; and who is responsible for the review of work, approval of leave, and evaluation of job performance.

Testing Contractor - The outside contractor procured to perform the drug and alcohol tests required by law and this policy.

Reasonable Suspicion - The evidentiary standard which shall be met before a “for cause” controlled substance/alcohol test is required of an employee in a CDL driver position. In order to meet this standard, the properly trained supervisor shall determine, based on specific observations that can be articulated concerning the appearance, behavior, speech, or body odors of the CDL driver, that there is a reasonable basis to suspect that a test would show the CDL driver has a controlled substance/alcohol in his/her body.

Reasonable Suspicion Referral - A recommendation for drug or alcohol testing that meets the criteria for reasonable suspicion.

Refusal to Submit [to an alcohol or control substance test] - Means that a CDL driver:

- a. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing;
- b. Fails to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing;
- c. Engages in conduct that clearly obstructs the testing process; or
- d. Fails to report directly to the testing site within one (1) hour of being instructed to do so.

Return-to-Duty Testing - A CDL driver who tests positive shall undergo an alcohol or controlled substance test before he or she returns to duty. The results must be negative or the CDL driver shall not be permitted to perform safety sensitive functions.

Safety Sensitive Functions – ***Functions that pertain strictly to this policy relating to DBH CDL drivers.*** Any of those on-duty functions which include all work activities and performances that affect public welfare and the safety of the public or fellow employees. This is inclusive of the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibilities for performing work. Safety sensitive functions shall include:

- All time at the worksite, unless the driver has been relieved from duty by the employer;
- All time inspecting equipment, and
- All time spent at the driving controls of a commercial motor vehicle in operation.

Screening Test (Initial Test) – *In alcohol testing*, it means an analytical procedure to determine whether a CDL driver may have a prohibited concentration of alcohol in his or her system. *In controlled substance testing*, an immunoassay screen to eliminate “negative” urine specimens from further analysis.

Split Sample Testing – Division of the urine specimen in controlled substance testing into two (2) separate containers, the primary specimen used for the immunoassay test and gas chromatography/mass spectrometry tests. The split specimen is used if the CDL driver requests a second test after being informed of a verified positive screening test.

Substance Abuse Professional (SAP) – A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addictions counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

21. **Related References.**

Employee Assistance Program (EAP) Provisions
DPM Chapter 12, Hours of Work, Legal Holidays, and Leave
DPM Chapter 14, Performance Evaluation
DPM Chapter 16, Adverse Actions and Grievances
DPM Chapter 18, Employee Conduct

22. Exhibits.

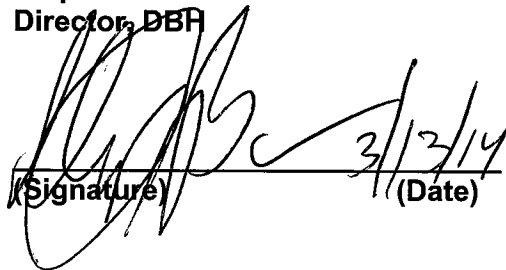
Exhibit 1 – Employee Acknowledgement of Receipt of Mandatory Testing for DBH Drivers of Commercial Motor Vehicles for Presence of Controlled Substances & Alcohol Policy

Exhibit 2 - DBH Drug and Alcohol Testing Reasonable Suspicion Form

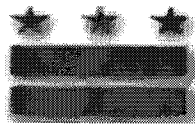
Exhibit 3 – Confidential CDL Driver Self Identification/Referral Form

Approved by:

Stephen T. Baron
Director, DBH


(Signature) 3/13/14 (Date)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF BEHAVIORAL HEALTH**



**EMPLOYEE ACKNOWLEDGEMENT OF RECEIPT OF
MANDATORY TESTING FOR DBH DRIVERS OF COMMERCIAL MOTOR VEHICLES
FOR PRESENCE OF CONTROLLED SUBSTANCES AND ALCOHOL POLICY**

I _____ have received a legible copy of the DBH Mandatory Drug and Alcohol Testing for DBH Drivers of Commercial Motor Vehicles Policy and I have been informed of the requirements. I understand that my employment is at all times, conditioned upon full adherence to this policy and I will be subject to Random, Reasonable Suspicion, Post-Accident, Return to Duty, and Follow-up controlled substances and alcohol testing.

Employee Name _____

Signature _____

Date _____

Supervisor's Name: _____

Signature _____

Date _____

Employee's Name: _____

Date of Observation: _____

Time of Observation - From: _____ To: _____ Location: _____

OBSERVATION-PLEASE CHECK ALL THAT APPLY--Provide this form to the DBH/Drug Testing Liaison (DLT) in Human Resources

[illegible]

ABOVE BEHAVIOR WITNESSED BY:

SUPERVISOR NAME: _____ **SIGNED:** _____ **DATE:** _____

SUPERVISOR NAME: _____ **SIGNED:** _____ **DATE:** _____

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF BEHAVIORAL HEALTH



CONFIDENTIAL

Commercial Driver's License (CDL) Driver
SELF IDENTIFICATION/REFERRAL FORM

I. I _____ **acknowledge I have a problem with:**

- a. A CONTROLLED SUBSTANCE _____
- b. ALCOHOL _____
- c. A CONTROLLED SUBSTANCE and ALCOHOL _____

II. I am self-referring myself to:

- a. The District's Employee Assistance Program (EAP) for assistance _____
- b. A private counseling and rehabilitation program _____ (employee responsible for full cost)

Signature of Employee

Signature of Witness

Today's Date: _____

Today's Date: _____

SUBMIT THIS FORM TO YOUR SUPERVISOR and self refer to EAP or a private counseling and rehabilitation program within 24-hours of self-identification to your supervisor.

Supervisor Must Notify the DBH/Drug Testing Liaison (DTL) immediately.

If the employee chose a private counseling and rehabilitation program, the employee must notify the DLT immediately in writing, to provide the name of their source of treatment and to find out what additional information he/she must provide.